

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**Docket No. EPI3004B
(Formerly 310098.401C1)

In the application of: Hein et al.
Serial No.: 09/005,318
Filed: January 9, 1998
For: NOVEL EPITHELIAL TISSUE TARGETING AGENT

The owner, Epicyte Pharmaceutical, Inc., of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173 as shortened by any terminal disclaimer of prior U.S. Patent Nos. 6,045,774; 6,251,392; and 6,391,280. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successor or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to grant.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is attorney or agent of record.

Dated: July 24, 2003

By: Barry S. Wilson

Name: Barry S. Wilson
Registration No.: 39,431

- ☒ Terminal disclaimer fee of \$55.00 under 37 C.F.R. § 1.20(d) is attached.

- ☐ The terminal disclaimer fee of \$55.00 was previously paid.

- ☒ PTO suggested wording for Terminal Disclaimer was:

07/28/2003 TTAB81 80000005 500872 09005318

☒ unchanged

☐ changed (explanation on attached sheet).

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